

REMARKS

Claims 1–20 are pending in the present application.

Claims 1, 9 and 17 were amended to explicitly recite limitations which were inherent in the claims as filed. The scope of those claims has therefore not been altered.

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 102 (Anticipation)

Claims 1–5, 7–13, 15–18 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by "Admitted Prior Art." This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

The present invention, as made explicit in the amended independent claims, partitions radio dependent functions from radio independent functions and performs them separately, within different components. Such a feature is not shown or suggested by the "Admitted Prior Art."

Therefore, the rejection of claims 1–5, 7–13, 15–18 and 20 under 35 U.S.C. § 102 has been overcome.

35 U.S.C. § 103 (Obviousness)

Claims 6, 14 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over "Admitted Prior Art" in view of U.S. Patent No. 5,887,256 to *Lu et al.* This rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of

obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

As noted above, the independent claims requiring partitioning and separate performance of radio dependent functions from radio independent functions. Such a feature is not shown or suggested by the cited references. *Lu et al* discloses a base transceiver stations (BTS) 164 which handles both components performing radio dependent functions including at least radio transceiver units for radio transmission and reception and components performing radio independent functions including at least transcoder-rate adapter unit (TRAU) 168 for transcoding traffic on E1 trunk line 174.

Therefore, the rejection of claims 6, 14 and 19 under 35 U.S.C. § 103 has been overcome.

AMENDMENT WITH MARKINGS TO SHOW CHANGES MADE

Claims 1, 9 and 17 were amended herein as follows:

1 1. (amended) For use in a CDMA wireless network comprising a plurality of base
2 stations capable of communicating with a plurality of mobile stations located in a coverage area
3 of said CDMA wireless network, a partitioned selection and distribution unit (SDU) comprising:
4 a first controller capable of performing all radio dependent functions for calls
5 involving said selection and distribution unit, wherein said radio dependent functions are related
6 to a transfer of wireless traffic between said plurality of base stations and said plurality of
7 mobile stations; and
8 a second controller disposed apart from said first controller and capable of
9 performing all radio independent functions for said calls involving said selection and
10 distribution unit, wherein said radio independent functions are related to a transfer of at least
11 one of voice traffic, data traffic, and signaling traffic between said CDMA wireless network and
12 a wired network coupled to said CDMA wireless network.

1 9. (amended) A CDMA wireless network capable of communicating with a plurality of
2 mobile stations located in a coverage area of said CDMA wireless network, said CDMA
3 wireless network comprising;

4 a plurality of base stations capable of wirelessly communicating with said
5 plurality of mobile stations, at least one of said plurality of base stations comprising a first
6 controller capable of performing all radio dependent functions for calls involving said plurality
7 of mobile stations, wherein said radio dependent functions are related to a transfer of call traffic
8 between said plurality of base stations and said plurality of mobile stations; and

9 a mobile switching center capable of transferring said call traffic between said
10 plurality of base stations and a wired network coupled to said CDMA wireless network, said
11 mobile switching center comprising a second controller capable of performing all radio
12 independent functions for said calls involving said plurality of mobile stations, wherein said
13 radio independent functions are related to a transfer of at least one of voice traffic, data traffic,
14 and signaling traffic between said CDMA wireless network and said wired network.

1 17. (amended) A method of operating a CDMA wireless network comprising a plurality
2 of base stations capable of communicating with a plurality of mobile stations located in a
3 coverage area of the CDMA wireless network, the method comprising the steps of:
4 receiving in at least one base station at least one of voice traffic, data traffic, and
5 signaling traffic transmitted by a selected one of the plurality of mobile stations;
6 performing in the at least one base station all radio dependent functions for
7 handling said at least one of voice traffic, data traffic, and signaling traffic, wherein the radio
8 dependent functions are related to a transfer of wireless traffic between the at least one base
9 station and the selected mobile station; and
10 performing all radio independent functions for said handling of said at least one
11 of voice traffic, data traffic, and signaling traffic in a mobile switching station of the CDMA
12 wireless network, wherein the radio independent functions are related to a transfer of at least
13 one of the at least one of voice traffic, data traffic, and signaling traffic between the CDMA
14 wireless network and a wired network coupled to the CDMA wireless network.

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at jmockler@novakov.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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